



Aquatic Pesticide Strategy re: 9th Circuit Court Talent Decision

- ✧ Use existing permitting methods
- ✧ Notify existing and new potential applicators of the need for NPDES coverage
- ✧ Develop appropriate NPDES application
- ✧ Scope out and begin development of NPDES general permit(s)
- ✧ Issue final permit spring 2002



Existing permitting methods

- Oversight of aquatic pesticides since 1980
- To control: Aquatic plants, mosquitoes, gypsy moths, burrowing shrimp and fish.
- An administrative order process that relied heavily on SEPA and EIS evaluations to mitigate impacts.
- No oversight for irrigation ditch pesticide applications.



The 9th Circuit Court Decision*

- ✧ March 12, the 9th Circuit Court reversed a district court regarding Headwaters, Inc. and Talent Irrigation District.
- ✧ The District Court found that irrigation ditches were waters of the nation and that acrolein was a pollutant..
- ✧ The circuit court found they needed a NPDES permit under the CWA.
- ✧ <http://laws.findlaw.com/9th/9935373.html>

Notifying applicators of their need for NPDES coverage

- ✧ Cover letter and order language was added to advise existing applicants of the 9th court decision.
- ✧ A team was convened in Ecology to scope out developing a general NPDES permit
- ✧ Meetings were set up with irrigation district representatives, mosquito district representatives and other applicators to discuss the court decision and Ecology's proposed course of action.



Ecology developed an appropriate NPDES application

- ✧ The short-term modification application was modified to include necessary language for EPA's form A.
- ✧ A dual application was sent to the irrigation districts and applicants who normally applied prior to March or April.
- ✧ Ecology is reviewing the applications for completeness. ERs may be required.



Development of a NPDES permit

- ✧ A permit team has been convened
- ✧ A notice of Ecology's intent to develop a general permit will go to the state register in August.
- ✧ Advisory committees will be formed.
- ✧ Determination of limitations, monitoring, reporting and other requirements.



Tentative Schedule

- ✧ August - Notify State Register
- ✧ September - 1st advisory group meeting
- ✧ October - internal review of draft permit and fact sheet
- ✧ December - Public Notice draft permit(s) and fact sheet
- ✧ February - Public Notice final permit(s) and fact sheet.